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INFO RUCNSOM/SOMALIA COLLECTIVE

C O N F I D E N T I A L SECTION 01 OF 02 SANAA 001527

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DEPARTMENT FOR NEA/ARP AMACDONALD AND OES/MSN

E.O. 12958: DECL: 08/17/2019

TAGS: [EWWT](#) [KCOR](#) [KCRM](#) [PGOV](#) [PHSA](#) [PREF](#) [YM](#)

SUBJECT: ROYG PROSECUTES SUSPECTED SOMALI PIRATES, BUT  
CORRUPTION CONCERNS ABOUND

Classified By: Ambassador Stephen Seche for reasons 1.4(b) and (d).

11. (SBU) SUMMARY: With the prosecution of 22 suspected Somali pirates, the ROYG is now fighting piracy in the courts as well as at sea. The piracy trials warrant close monitoring, as the number of suspected pirates handed over to Yemeni authorities is likely to increase as a result of heightened anti-piracy patrols by international maritime forces. Successful prosecution by the ROYG would bolster the US position that, rather than create an international piracy prosecution mechanism, states that are directly affected by piracy should prosecute those suspected of this crime. The weaknesses of the Yemeni judiciary, coupled with the ROYG's unwillingness to acknowledge its own nationals' complicity in facilitating piracy, will hamper the ability of the courts to punish and deter this crime. The Embassy intends to encourage the ROYG to seek legal and financial assistance for the prosecutions from the UNODC's new Counter-Piracy Program and the Contact Group on Piracy off the Coast of Somalia, while continuing to push the ROYG to prosecute Yemeni nationals suspected of supporting piracy. END SUMMARY.

#### PIRACY TRIALS

12. (U) For the first time, the ROYG is prosecuting Somali nationals suspected of piracy in the Gulf of Aden. Two separate but concurrent trials of accused Somali pirates began on July 2, when prosecutors charged ten Somalis with hijacking and 12 others with attempted hijacking. As interpretation had not been arranged for the defendants, who do not speak Arabic, the judge ordered the prosecution to provide a translator and adjourned the trial for two weeks. At the second session on July 15, the defendants pled not guilty and the judge adjourned the trials until after the judiciary's lengthy summer recess. The trials are expected to last months, with the next session scheduled to occur on October 7 in Aden's al-Mina criminal court.

13. (U) The 22 Somalis on trial were detained by international forces in two separate incidents. Twelve Somalis and 12 Yemenis were detained in December 2008 by an Indian warship and handed over to the ROYG for prosecution; the 12 Yemenis were released without charge. The other ten Somalis were detained in February 2009 by the Russian Navy. Both groups were armed with Kalashnikovs, RPGs, and ammunition. (Note: According to Commander Shugaa Almahdi of the Yemeni Coast Guard (YCG), an additional 19 suspected Somali pirates are in Yemeni custody awaiting prosecution. Eleven were arrested by the Yemeni Navy during the April 2009 rescue of the Qana oil tanker; their trial is expected to begin in October in a special security court in Sana'a. A fourth group of seven suspected pirates adrift on a broken-down boat was detained by the Danish Navy in December 2008. End Note.)

#### QUESTIONABLE IMPACT

14. (C) The piracy trials are not without criticism. Khaled Saleh al-Anesi, Executive Director of the National Organization for Defending Rights and Freedoms (HOOD), expressed doubts about the Yemeni government's ability to prosecute the Somalis fairly. He told PolOff on July 8 that a weak judiciary, widespread corruption, and political interference make justice difficult enough to achieve in regular criminal cases, and "even further out of reach for Somalis" accused of piracy -- especially considering that the ROYG wants to look tough on pirates to curry favor internationally. Ayman Mohamed Nasser, Editor-in-Chief of Aden's independent weekly Al-Tariq, echoed this concern when he told PolOffs on August 8 that the trials "will be under political influence."

15. (U) Even if the judiciary were able to act independently, however, there are serious doubts about the trials' ability to deter piracy. According to Colonel Lotf al-Baraty, General Director of the YCG's Gulf of Aden branch, the ongoing trials will have absolutely no impact. Because of the lore surrounding the origins of piracy -- young men defending Somali territorial waters and natural resources -- "piracy is not seen as something bad," he told PolOffs on August 8. "Pirates are proud to be pirates," and the Somali people regard them as heroes.

#### CONCERNS OF YEMENI COMPLICITY

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16. (C) During their August 8 visit to Aden, PolOffs heard allegations from various sources that Yemeni individuals and officials are complicit in piracy. Nasser told PolOffs, "It

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is very obvious to journalists monitoring piracy that the Yemeni government is trying to hide indications of Yemenis involved with Somali pirates." He believes that certain ROYG officials facilitate piracy and that some Yemeni fishermen provide logistical support to pirates, such as food, diesel fuel, and weapons. He questioned the prosecution's account of the December 2008 capture of pirates because it differs from that of the Indian Navy's, which considered all 24 detainees -- Yemenis as well as Somalis -- to be pirates. According to the ROYG, however, the 12 Yemenis captured by the Indian warship were innocent fisherman held hostage by the Somalis. Hussein Mahmood, Somalia's Deputy Consul in Aden, shares similar concerns. He told PolOffs that he believes the Somalis on trial were involved in piracy, but added, "I suspect they had help from Yemenis." Yemen-based support for piracy has been documented by the UN Monitoring Group on Somalia, which in its December 2008 report noted that "mother ships" -- which are used by pirates to extend the range and endurance of their operations -- are based in Mukalla, Shishr, and other towns on the Yemeni coast.

#### COMMENT

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17. (C) There are credible allegations that Somali pirates are aided by Yemeni fishermen and ROYG officials -- especially through the sale of ROYG-subsidized diesel fuel -- yet the ROYG does not appear willing to acknowledge that fact, let alone take action against those involved. Instead, the ROYG insists on laying the blame for piracy exclusively on Somalia. (Note: For instance, when discussing piracy and the smuggling of drugs, weapons, and immigrants in the Gulf of Aden, Baraty told PolOffs that "all these problems share one thing in common -- they all come from Somalia." End Note.) Successful piracy prosecutions by the ROYG would bolster the US position that states directly affected by piracy should prosecute it. The ROYG's unwillingness to confront the involvement of Yemeni nationals will undermine the courts' ability to deter this crime and, more importantly, will allow critical supplies of food, fuel, and weapons to continue to flow to pirates. Post will therefore encourage the ROYG to seek legal and financial assistance

from the UNODC's new Counter-Piracy Program and the Contact Group on Piracy off the Coast of Somalia -- which has an International Trust Fund to defray expenses associated with prosecuting suspected pirates -- while also continuing to call on the ROYG to prosecute Yemeni nationals suspected of providing logistical support to Somali pirates. END COMMENT.  
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